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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,144	01/07/2004	Richard M. Krystoff		7463

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EXAMINER

HWANG, VICTOR KENNY

ART UNIT PAPER NUMBER

3764

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/754,144	KRYSTOFF, RICHARD M.	
	Examiner	Art Unit	
	Victor K. Hwang	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device incorporating cushioning and padding (claim 16); and the device incorporating an optional backrest (claim 17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The substitute specification filed May 4, 2005 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: it appears to be missing a significant number of pages. It appears that only pages 2, 3, 11, 26 and 39 were scanned into the file of record.

A substitute specification not including the claims is required pursuant to 37 CFR 1.125(a) because the previously submitted substitute specification appears to be incomplete.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

Double Patenting

3. Claims 18 and 19 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 11 and 12, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is

proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7, 9-16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by *Rodarte* (US Pat. 6,196,949 B1). *Rodarte* discloses a fitness device 10 comprising at least one armrest 20 with a means to support a user's weight; at least one handgrip 30 located such that a user 17 can grasp the handgrip while also utilizing the armrest; the armrests, handgrips and means to support the same are configured into a frame; and a means 16 or 41 to support the device from above and from below. The frame of the device can be made of aluminum, steel, wood or plastic. Aluminum and steel are metallic materials; wood and plastic are non-metallic materials; and wood is a composite material. The handle 21 provides a means to be attachable to a supporting surface or structure. The handle 21 is also capable of being supported by a pull-up or chin-up bar. The device shown in Figs. 1-4 comprises a one-piece frame. The device shown in Figs. 5-11 comprise a two or more piece frame. Figs. 6-8 disclose devices wherein the dimensions are adjustable in length. Cushioning and padding are provided for the comfort of the user.

6. Claims 1, 6, 10, 13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by *Angelo* (US Pat. 4,838,250). *Angelo* discloses a fitness device comprising at least one padded armrest 7 with a means to support a user's weight; at least one handgrip 29 located such that a user can grasp the handgrip while also utilizing the armrest; the armrests, handgrips and means to support the same are configured into a frame; and a means 31 to support the device from below. The device is freestanding and comprises a frame that is multi-part. A backrest 26 is incorporated into the device.

7. Claims 1, 2, 5, 7-9, 11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by *Plovie* (US Pat. 4,662,629). *Plovie* discloses a fitness device comprising at least one armrest 32 with a means to support a user's weight; at least one handgrip 30 located such that a user 14 can grasp the handgrip while also utilizing the armrest; the armrests, handgrips and means to support the same are configured into a frame 18; and a means 34 to support the device from above within a door opening. The frame is made of cylindrical metal tubing. The straps 34 are capable of being supported by a pull-up or chin-up bar. The frame 18 is a one-piece frame.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ecroyd (US Pat. 2,989,114), *Schaevitz* (US Pat. 3,521,881), *Mater et al.* (US Pat. 3,568,226), *Freed* (US Pat. 5,080,352), *Pryor, Jr. et al.* (US Pat. 5,261,868), *Austin* (US Pat.

5,302,164), *Hagberg* (US Pat. 5,564,451), *Elbogen* (US Pat. 5,839,994), *Sizemore, III et al.* (US Pat. 6,033,351), *Kallassy* (US Pat. 6,217,483 B1) and *Birmanns* (DE 3,430,475 A1) disclose various fitness devices comprising an armrest and handgrip configured into a frame and means to support the device.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.


The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
November 27, 2006



(JACKIE) TAN-UYEN HO
PRIMARY EXAMINER
11/29/06